

**IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

RALPH HARRISON BENNING,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 5:08-CV-435(MTT)
)	
STATE OF GEORGIA, et al.,)	
)	
Defendants.)	
_____)	

ORDER

This matter is before the Court on pro se Plaintiff Ralph Harrison Benning's Motion to Strike (Doc. 82) and Motion for Instructions Concerning Exhibits and Discovery Recovery (Doc. 73). In his Motion to Strike, Benning requests that the Court strike various arguments and portions of affidavits that the Defendants submitted in support of their Motion for Summary Judgment. Generally, motions to strike are viewed with disfavor, and, unless "it is clear that the matters stricken have no possible relationship to the controversy and may prejudice the other party, motions to strike are usually denied." *McNair v. Monsanto Co.*, 279 F. Supp. 2d 1290, 1298 (M.D. Ga. 2003) (citations omitted). Moreover, the use of a Rule 12(f) motion "for the advancement of objections to an affidavit filed in support of a motion is generally considered improper." *Id.* (citation omitted). "[I]t is sufficient for the party opposing the motion to register its objection to the movant's affidavits by way of the material submitted in opposition to the motion. The court will then implicitly, if not explicitly, rule upon [the] objections in its consideration of the motion." *Smith v. Southeastern Stages, Inc.*, 479 F. Supp. 593, 595 (N.D. Ga. 1977).

Based on the foregoing applicable law, the Court finds that Benning's Motion to Strike is improper, and it is therefore **denied**. To the extent Benning intended the Motion to raise his objections to the Defendants' Motion for Summary Judgment, the Court will consider his objections in reaching a decision thereon.

In his Motion for Instructions, Benning requests that the Court not require him to submit additional copies of the documents he has filed in support of his Motion for Summary Judgment. The Defendants do not object to Benning's request, and the Court sees no reason to require Benning, who is a state prisoner proceeding in forma pauperis without the assistance of counsel, to incur this additional expense. Accordingly, his Motion for Instructions is **granted**.

SO ORDERED, this 6th day of January, 2012.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT